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**By Email & Overnight Courier**

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
Commonwealth of Massachusetts  
One South Station  
Boston, MA 02110

Re: ***Verizon's Line Splitting Tariff Filing***

Dear Secretary Cottrell:

On October 5, 2001, Verizon filed with the Department a proposed tariff setting forth the terms and conditions for line splitting.<sup>1</sup> To the extent identified herein, WorldCom, Inc. hereby opposes Verizon's proposed tariff and respectfully requests that it be suspended and that Verizon be ordered to modify its tariff to address the concerns identified below.

**Part B, Section 22.2.2.A:** This section of Verizon's proposed tariff unduly restricts line splitting by describing it as "access to the high frequency portion of an existing copper loop". By this language, it appears that Verizon seeks to limit its obligation to provide line splitting to copper facilities, thereby denying the benefits of line splitting to customers served via fiber feeder. The FCC,

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<sup>1</sup> As the Department is aware from the litigation in D.T.E. 98-57, "line splitting" allows customers to receive xDSL-based services on the same loop on which they receive UNE-P-based voice service from a CLEC such as WorldCom. The xDSL service in a line splitting arrangement can be provided either by the CLEC providing the UNE-P voice service or a separate data CLEC (in the latter situation, Verizon's tariff refers to the voice and data providers as the "VLEC" and the "DLEC," respectively). Line splitting is distinguished from "line sharing" in that in a line-sharing arrangement, while a DLEC provides the xDSL service, the customer's voice service is provided by the incumbent LEC (i.e., Verizon).

however, has imposed no such restriction. Rather, in its *Line Sharing Reconsideration Order*<sup>2</sup>, the FCC defines an ILEC's line splitting obligation more broadly, without limiting its scope to copper loops only:

We find that incumbent LECs have a current obligation to provide competing carriers with the ability to engage in line splitting arrangements. . . . [I]ndependent of the unbundling obligations associated with the high frequency portion of the loop that are described in the *Line Sharing Order*, incumbent LECs must allow competing carriers to offer both voice and data service over a single unbundled loop. This obligation extends to situations where a competing carrier seeks to provide combined voice and data services on the same loop, or where two competing carriers join to provide voice and data services through line splitting.

*Line Sharing Reconsideration Order*, ¶18. Indeed, this broad obligation is entirely consistent with the FCC's comparable finding earlier in the same Order with respect to line sharing. Over strenuous ILEC objections, the FCC made it clear that "the requirement to provide line sharing applies to the entire loop, even where the incumbent has deployed fiber in the loop (e.g., where the loop is served by a remote terminal)." *Line Sharing Reconsideration Order*, ¶10. Of course, given that line splitting and line sharing are identical from a network engineering perspective, the FCC's technology-neutral ruling on line splitting is not at all surprising.<sup>3</sup>

WorldCom recognizes that as a practical matter the provision of line splitting over fiber-fed loops involves other operational issues that must be resolved prior to commercial implementation. However, WorldCom's and other CLECs' ability to access fiber-fed loops as a matter of law should not be completely foreclosed by virtue of the self-imposed technical limitation Verizon places in its tariff.

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<sup>2</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, FCC 01-26 (rel. Jan. 19, 2001) (further citation omitted) (*Line Sharing Reconsideration Order*).

<sup>3</sup> As the Department itself has noted, the FCC "determined that from a technical and operational standpoint, there should be no difference between how a CLEC provides UNE-P line splitting from how an ILEC provides its combined voice and data offering." *Phase III-A Order*, D.T.E. 98-57-Phase III (January 8, 2001), at 50 (citing *NYPSC DSL Order* at 11 ("finding that the engineering processes for splitting a line for a UNE-P voice customer and sharing a line for a Verizon voice customer are identical")). See also, *Line Sharing Reconsideration Order*, ¶22 ("no central office wiring changes are necessary in a conversion from line sharing to line splitting").

As such, the tariff should be modified to either eliminate references to “copper,” or to make it explicit that line splitting is not strictly limited to copper loops.

**Part B, Section 22.1.1.D:** This section describes the way in which Verizon “will facilitate the ability of a DLEC to add DSL to an existing UNE-P arrangement.” Specifically, the addition of a data CLEC’s xDSL service to a UNE-P customer’s line “will trigger the conversion of a UNE-P to a 2 wire line split loop (i.e., UNE ADSL compatible loop) and a UNE analog end office switch port.” This language should be modified to remove any reference to a “conversion” of service to something other than UNE-P.

As the Department well knows, the issue of whether the UNE-P arrangement remains “intact” following the addition of xDSL service to a UNE-P voice customer’s line has been the subject of considerable litigation in D.T.E. 98-57. After initially “reject[ing] the CLECs’ request to permit a CLEC’s UNE-P arrangement to remain intact after line splitting” in its September 2000 *Phase III Order*<sup>4</sup>, the Department reconsidered and reversed that finding three months later in its *Phase III-A Order*.<sup>5</sup> Specifically, after a more thorough analysis of the FCC’s discussion of line splitting in its *SBC Texas Order*<sup>6</sup>, the Department “conclud[ed] that Verizon is required to keep the UNE-P arrangement intact when CLECs use line splitting to provide voice and data services to customers over the same, Verizon-leased line.” *Phase III-A Order* at 49. Less than two weeks after the Department issued its *Phase III-A Order* the FCC issued its *Line Sharing Reconsideration Order*, prompting Verizon to file with the Department on January 29, 2001 a motion for clarification of the Department’s *Phase III-A Order*.

To put the *Line Sharing Reconsideration Order* in context, the FCC:

?? “grant[ed] the petitions of AT&T and WorldCom with respect to their request for clarification that an incumbent LEC must permit competing carriers providing voice service using the UNE-platform to either self-provision necessary equipment or partner with a competitive data carrier to provide xDSL service on the same line” (¶16), and

?? held that “incumbent LECs have an obligation to permit competing carriers to engage in line splitting using the UNE-platform where the competing carrier purchases the entire loop and provides its own splitter” (¶19).

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<sup>4</sup> *Phase III Order*, D.T.E. 98-57-Phase III (September 29, 2000) at 38.

<sup>5</sup> *Phase III-A Order*, D.T.E. 98-57-Phase III (January 8, 2001).

<sup>6</sup> *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238 (*SBC Texas Order*).

Verizon nevertheless viewed the *Line Sharing Reconsideration Order* as an opportunity to undo – or at least cast perceived doubt over – the Department’s holding in the *Phase III-A Order* that “Verizon is required to keep the UNE-P arrangement intact when CLECs use line splitting to provide voice and data services over the same, Verizon-leased line.” Verizon sought to accomplish this goal by including in its motion an argument that was not central to, and indeed ran counter to, the relief it was actually requesting.

The specific and limited relief sought by Verizon’s motion for clarification was “that the Department clarify that its ruling concerning line splitting is intended to require that [Verizon] provide line splitting pursuant to FCC requirements and that the Department was not imposing a different or additional requirement on Verizon MA.” Verizon Motion for Clarification at 2. And, in fact, the Department granted that limited request in its *Phase III-B Order*, in which it confirmed that it requires Verizon “to provide line splitting in accordance with FCC Orders and rules” and clarified that it “does not impose line splitting obligations on Verizon beyond those set forth in the FCC’s [*SBC Texas Order*] and its *Line Sharing Reconsideration Order*.”<sup>7</sup>

To be clear, WorldCom does not oppose or disagree with the Department’s limited holding in the *Phase III-B Order*. However, in purported defense of its request for that innocuous relief, Verizon included an argument with which WorldCom strenuously disagrees: Verizon argued that the *Line Sharing Reconsideration Order* “clarified” that when CLECs engage in line splitting, “a UNE-P arrangement does not remain ‘intact’ as the Department indicated the FCC had previously ruled.” Verizon Motion for Clarification at 4. In fact, the *Line Sharing Reconsideration Order* did no such thing. Rather, as the Department itself observed, the *Line Sharing Reconsideration Order* merely “repeats language used in its [*SBC Texas Order*] with respect to line splitting and UNE-Platform.” *Phase III-B Order* at 3. Given that (a) the *SBC Texas Order* was the Department’s original source for concluding that the UNE-P arrangement does remain “intact” after line-splitting, and (b) nothing in the *Line Sharing Reconsideration Order* contradicts or is inconsistent with the *SBC Texas Order* in that regard, the Department’s *Phase III-B Order* rightly contains no explicit or implicit erosion of the line splitting analysis and findings in the Department’s *Phase III-A Order*. Yet by “granting” Verizon’s motion, the Department may have inadvertently left the door open for Verizon to assert that there is an air of legitimacy to its argument. That assertion has now come in the form of Verizon’s request that the

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<sup>7</sup> *Phase III-B Order*, D.T.E. 98-57-Phase III (February 21, 2001).

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Department sanction its use in the proposed tariff of language that undercuts the holding of the *Phase III-A Order*.<sup>8</sup>

In short, by reference to a “conversion” from a UNE-P arrangement with the implementation of line splitting on a customer’s line, Verizon’s proposed tariff seeks to unilaterally undo the Department’s *Phase III-A Order*, which (a) correctly interprets Verizon’s obligations under federal law, and (b) has not been substantively modified by any subsequent Department action. As such, Verizon’s line splitting tariff should be rejected by the Department, and Verizon should be ordered to modify the tariff language to be consistent with the Department’s finding that the UNE-P arrangement remains intact when CLECs use line splitting to provide voice and data services to customers.

Thank you for your attention to this matter.

Very truly yours,

Christopher J. McDonald

cc (by email & U.S. Mail): D.T.E. 98-57-Phase III Service List

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<sup>8</sup> Parties to D.T.E. 98-57 did not alert the Department to the potential for Verizon’s opportunistic use of a Department order granting its request for clarification because the Department specifically requested comments “**only**” on another issue raised by Verizon in its motion, stating that it had “determined that no additional comments are necessary to inform its decision” on the line splitting issue. *Request for Comments* issued by Hearing Officer Carpino (February 1, 2001) (emphasis in original).